

STATEMENT OF PURPOSE

RS22454

On November 20, 2012, PERSI received a determination letter from the IRS for the PERSI Base Plan. A determination letter is the IRS's statement that the terms of the plan (PERSI's statutes and rules) are in accordance with applicable federal statutes to qualify the plan as a qualified governmental pension plan under section 401(a) of the Internal Revenue Code. The determination letter was issued subject to PERSI making certain statutory and rule changes. This bill addresses the statutory changes.

Section 59-1306, Idaho Code states that the plan will be administered in accordance with certain enumerated subsections of section 401(a) of the Internal Revenue Code. This bill will add references to subsection (36) and subsection (37) of section 401(a) of the Internal Revenue Code. Subsection (36) was added to the IRC in 2006 and subsection (37) was added in 2008.

- Subsection (36) provides that a plan is not disqualified if it allows for a distribution to a person age 62 or older who is not separated from employment.
- Subsection (37) requires that the qualified plan treat a participant who dies while performing qualified military service as if he had resumed work and then died. The PERSI plan does that in Idaho Code section 59-1302(23) (definition of military service).

The bill will also add a statement that the plan shall be administered in accordance with the pre-ERISA vesting requirements of section 411(e)(2) of the Internal Revenue Code. That section requires 100% vesting upon a plan termination or upon complete termination of all employer contributions.

These sections of the Internal Revenue Code already apply to PERSI, as a qualified governmental retirement plan. The bill clarifies that by adding references to them.

The bill also adds a new subsection (2) to provide that for Idaho income tax purposes, a marriage must be one that is valid or recognized under section 28, article III of the Idaho Constitution and defined in Idaho Code section 32-201 or as recognized under Idaho Code section 32-209. Subsection (2) is not required by the determination letter.

FISCAL NOTE

The potential impact of the amendments to the General Fund and retirement system funds is considered negligible.

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